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Canada: National Energy Board
(Review of Aspects of the Market-
based Procedure)

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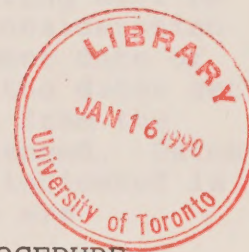
National Energy Board

Office national de l'énergie

File No.: 7200-3

18 December 1989

TO: INTERESTED PARTIES - GAS DISTRIBUTION LIST



RE: REVIEW OF ASPECTS OF THE MARKET-BASED PROCEDURE

The Board has decided to review the role that benefit-cost analysis should play in the Market-Based Procedure employed by the Board in considering applications to export natural gas pursuant to Part VI of the National Energy Board Act. It has taken this decision in light of concerns expressed by interested parties in respect of recent hearings to consider export applications and at a November Workshop held by Board staff to discuss benefit-cost analysis.¹ The Board has also decided to seek parties' views on the extent to which it should, as part of the Market-Based Procedure, examine the provisions of export contracts to determine whether those contracts allow flexibility in order to reflect changing market conditions over time.

For the purpose of this proceeding, the Board would request parties not to address the question of whether the Board has the jurisdiction to use benefit-cost analysis but rather to focus on whether and how the Board should use benefit-cost analysis in considering export applications.

¹ A copy of the Workshop proceedings will be available shortly.

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The procedure to be followed for this review is set out in the attached Directions on Procedure. While the schedule imposes tight deadlines, the Board believes it would be desirable to have this matter resolved as soon as possible and before further export applications are considered. To achieve this end, the Board has decided to postpone the commencement date of the hearing to be held pursuant to Order GH-6-89. A revised Directions on Procedure setting the date for that hearing will be issued shortly. It is anticipated that the Board's consideration of this review will be completed before the commencement date of the hearing to be held pursuant to GH-5-89, and that the dates set out in the Board's 1 December 1989 decisions stemming from the GH-5-89 pre-hearing conference will not have to be changed. Dates for filing documents in both hearings will remain as indicated in the respective Directions on Procedure unless parties are otherwise advised.


The Board wishes to emphasize that this is a generic review of certain aspects of the Market-Based Procedure and not a review of any specific export decisions. Depending on the outcome of the generic review, the Board may decide it is necessary or desirable to review specific export decisions but a determination on that question cannot be made until after this review has been completed.

Yours truly,

A handwritten signature in cursive script that reads "Marie Tobin".

Marie Tobin
Secretary

Att.



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18 December 1989

HEARING ORDER GHW-4-89

Directions on Procedure

Review of Certain Aspects of the
Market-Based Procedure

The July 1987 National Energy Board ("the Board") Reasons for Decision described the Market-Based Procedure ("the MBP") the Board intended to use when considering applications to export natural gas pursuant to Part VI of the National Energy Board Act ("the Act"). Under that procedure, the Board indicated that as part of its public interest determination, it intended to consider, inter alia, details of the sales arrangements and evidence that the export revenues would fully recover the costs to Canada incurred in making the export. The Board also stated that benefit-cost analysis would continue to be an important tool of the Board in assuring itself that proposed exports are in the public interest.

The Board has decided pursuant to section 21 of the Act, to review certain aspects of the MBP, particularly the role of benefit-cost analysis, and for that purpose, to hold a hearing by way of written submissions to obtain parties' views.

The Board directs as follows:

PUBLIC VIEWING

1. A copy of documents related to this matter will be available for viewing in the Board's Library, Room 962, 473 Albert Street, Ottawa, Ontario and its office in Calgary, Alberta at 4500-16th Avenue, N.W.

INTERESTED PARTIES

2. Parties intending to make a written submission are required to notify the Secretary by 15 January 1990.
3. The Secretary will issue a list of interested parties shortly after 15 January 1990.

LIST OF ISSUES

4. The Board intends to examine the issues specified in Appendix I.

WRITTEN SUBMISSIONS AND REPLY

5. Written submissions shall be filed with the Secretary and served on all other parties to the proceeding by 26 January 1990.
6. Any reply to written submissions from interested parties shall be filed with the Secretary and served on other parties by 7 February 1990.

FILING AND SERVICE REQUIREMENTS

7. Where parties are directed by these Directions on Procedure or by the draft NEB Rules of Practice and Procedure to file or serve documents on other parties, the following number of copies shall be served or filed:
 - (1) for documents to be filed with the Board, provide 35 copies; and
 - (2) for documents to be served on other parties, provide 1 copy.

GENERAL

8. All parties are asked to quote Hearing Order No. GHW-4-89 when corresponding with the Board in this matter.
9. These Directions supplement the draft NEB Rules of Practice and Procedure.
10. For information on this hearing or the procedures governing the hearing, contact, Vivien St. George, Regulatory Support Officer, at 998-7196.

NATIONAL ENERGY BOARD

Marie Tobin

Marie Tobin
Secretary

LIST OF ISSUES

In addressing these issues, parties are requested to assume that the Board has jurisdiction to use benefit-cost analysis in considering and disposing of gas export applications.

1. Should the Board continue to use benefit-cost analysis as a factor in the MBP for determining whether exports of natural gas are in the public interest? Please state the rationale for your position on this issue.
2. If, in your view, the Board should continue to use benefit-cost analysis as part of the MBP, what role should that analysis play in the Board's decision-making process?
3. If, in your view, the Board should continue to use benefit-cost analysis as part of the MBP, is the methodology employed by the Board in its benefit-cost analysis since the introduction of the MBP appropriate?
4. If, in your view, the Board should discontinue the use of benefit-cost analysis as part of the MBP, how else should the Board take account of the differences between social and private costs in determining whether a proposed export is in the public interest? These differences result principally from the user cost component of total incremental production costs and from the incremental costs of transportation as distinct from rolled-in transportation costs.
5. To what extent should the Board, as part of the MBP, examine the provisions of export contracts to determine whether those contracts allow flexibility in order to reflect changing market conditions over time?

